

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA, Case No. 4:20cr422  
Akron, Ohio  
Plaintiff, October 21, 2020

vs.

LARESE KENNETH ALLEN, SR.,  
Defendant.

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE SARA LIOI  
UNITED STATES DISTRICT JUDGE

COMPETENCY HEARING

APPEARANCES:

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Court Reporter: Lori Ann Callahan, RMR-CRR  
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Proceedings recorded by mechanical stenography, transcript  
produced by computer-aided transcription.

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P R O C E E D I N G S

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THE COURT: All right.

MS. MIGDAL: Good afternoon, Your Honor.

THE COURT: We are here on Case Number 4:20cr422,  
United States of America versus Larese Allen, Sr.

We are conducting this proceeding by video  
conference.

And, Ms. Migdal, have you had an opportunity to  
confer with your client regarding the purpose of this  
hearing today?

MS. MIGDAL: I have, Your Honor.

THE COURT: And I know that you are asking for a  
competency examination.

Do you think he is at least -- do you think he  
understands the proceedings enough to consent to this video  
conference hearing?

MS. MIGDAL: I do.

THE COURT: Okay. So, Mr. Allen, you have an  
opportunity to either have this hearing in person or by  
video conference. And I understand that after a  
consultation with your attorney, you wish to proceed by way  
of video conference.

Is that correct, sir?

THE DEFENDANT: Yes, ma'am.

1 THE COURT: Okay. So the court finds that Mr.  
2 Allen has consented to the use of video teleconferencing to  
3 conduct this hearing today and that he has done so after  
4 consultation with his attorney and, therefore, the  
5 proceedings held on this day may be conducted by video  
6 teleconferencing.

7 Next, I will indicate the following are  
8 participating in the hearing: Assistant United States  
9 Attorney Jason Katz representing the United States; Attorney  
10 Debra Migdal representing Mr. Allen; of course Mr. Allen  
11 from whom we have already heard. I have permitted a  
12 relative of Mr. Allen's to participate to just view the  
13 proceedings and that is Frances Johnson. We also have my  
14 courtroom deputy clerk, Christina Eckert, and the court  
15 reporter, Lori Callahan.

16 So by way of background, on August 13, 2020,  
17 Mr. Allen was indicted on a two-count indictment.

18 Count 1 alleged the offense of transmitting a  
19 telephonic bomb threat via interstate commerce. And Count 2  
20 was one count of felon in possession of a firearm.

21 Before the court is the motion filed on behalf of  
22 the defendant for a court-ordered competency examination and  
23 hearing. The court has also taken the liberty of looking at  
24 the pretrial services report in this case, which did make  
25 reference to some mental health issues and diagnoses, as

1 well as two previous -- two previous competency examinations  
2 that I think were performed in 2013.

3 And so, therefore, Ms. Migdal, I will ask you,  
4 I've read your motion, is there anything further to add to  
5 the motion?

6 MS. MIGDAL: Well, Your Honor, I think my motion  
7 -- the motion expresses my concerns, and the court does have  
8 the background.

9 I did think it might be helpful to the court, but  
10 more so to the Bureau of Prisons, if I can provide very  
11 brief testimony from my client's grandmother. My client's  
12 grandmother testified at the preliminary hearing and  
13 detention hearing, and normally I forward that transcript,  
14 the relative portions, to the Bureau of Prisons so that they  
15 have the benefit of that information.

16 However, when I requested that transcript, I was  
17 informed that the court reporting equipment on that day or,  
18 in this instance, had malfunctioned and there is no  
19 transcript available for that proceeding before Judge  
20 Henderson, which is a shame because it was a pretty -- you  
21 know, it was an involved hearing.

22 But I just wanted to note with the court's  
23 schedule and with the court's permission if it permits, I  
24 would like to present some very brief testimony regarding my  
25 client that may be relevant to this court's determination

1 and to the Bureau of Prisons in determining my client's  
2 competency.

3 THE COURT: Okay. And about how long do you think  
4 that might last because I do have a 1:30? That's the only  
5 reason I am asking.

6 MS. MIGDAL: I would expect no more than ten  
7 minutes tops.

8 THE COURT: Okay. Any objection, Mr. Katz?

9 MR. KATZ: No, Judge.

10 THE COURT: Okay. All right. Then let's go  
11 ahead. Let's go forward with the brief testimony.

12 I will ask the courtroom deputy clerk to please  
13 administer the oath to Ms. Johnson.

14 If you would just raise your right hand,  
15 Ms. Johnson.

16 FRANCES JOHNSON  
17 of lawful age, a witness called by the United States, being  
18 first duly sworn, was examined and testified as follows:

19 THE COURT: All right. And you may proceed,  
20 Ms. Migdal.

21 DIRECT EXAMINATION OF FRANCES JOHNSON

22 BY MS. MIGDAL:

23 Q. Ms. Johnson, I am going to ask you a few questions.  
24 Some of them will be leading just because of the  
25 circumstances of this hearing.

1           May you -- would you mind explaining your relationship  
2 to Mr. Allen?

3           How are you related?

4           **A.** He's my grandson.

5           **Q.** Okay. And were you involved in raising him?

6           **A.** Yes, I had been since he was born.

7           **Q.** Okay. And is that because his mother was very young?

8           How old was she?

9           **A.** Fourteen.

10          **Q.** And his father was -- was his father involved in his  
11 upbringing?

12          **A.** No, he wasn't.

13          **Q.** And why was that?

14          **A.** His father had took advantage of his mother.

15          **Q.** Was his mother --

16          **A.** Because she was --

17          **Q.** Go ahead. I'm sorry. Go ahead.

18          **A.** Because she had a disability, and his father had took  
19 advantage of her.

20          **Q.** Okay. And was that a mental health disability?

21          **A.** Yes, it was.

22          **Q.** And Mr. Allen's father is in prison?

23          **A.** Yes, he is.

24          **Q.** Is he serving a sentence, and how long is his sentence?

25          **A.** I believe he got life.

1       **Q.** Okay. Now, raising Larese, did you determine at a  
2 young age that he had mental health issues?

3       **A.** Yes. I determined he was disabled, that he had  
4 disabilities when he was born and he had -- and he started  
5 having problems growing up. So he was going to facilities  
6 to be better. I had him going to facilities as he was  
7 growing up, and he was labeled that.

8       **Q.** When you say facilities, was he hospitalized as a child  
9 or youth in connection with mental illness?

10      **A.** Yes.

11      **Q.** Did that continue as an adult?

12      **A.** Yes, all through his life.

13      **Q.** It is my understanding that he has been previously  
14 diagnosed with bipolar disorder and depression.

15               Were you are aware of that?

16      **A.** Yes.

17      **Q.** And lack of impulse control, among other things?

18      **A.** Yes.

19      **Q.** In the course of his treatment for mental health, is he  
20 on medication?

21      **A.** You are fading out.

22      **Q.** Has Larese been on medications in connection with his  
23 mental illness?

24      **A.** Yes.

25      **Q.** Did those medications include Seroquel and Xanax?



1       **A.** Yes.

2       **Q.** I would like to specifically talk to you about Larese's  
3 ability to understand simple things and any comprehension  
4 deficits he might have.

5             Do you have any concerns about his ability to  
6 understand simple matters?

7       **A.** He has a very hard time understanding, and you might  
8 tell him, and then he loses all concept of what you telling  
9 him. You have to repeat it. He will come back and ask you  
10 again like you never told him before, and he has a reading  
11 comprehension. He has a lot of mental disabilities.

12       **Q.** Is he -- do you know if he's illiterate?

13       **A.** Yes, very illiterate, very.

14       **Q.** Do you occasionally have to draw pictures in order to  
15 get him to understand some things you are trying to explain  
16 to him?

17       **A.** Yes. I have to be very visual with him.

18       **Q.** Now, you indicated early in your testimony that  
19 Mr. Allen's mother, who I believe is your daughter -- is  
20 that correct?

21             Is his mother your daughter?

22       **A.** Yes.

23       **Q.** And your daughter has some also some mental health  
24 issues, and I believe that you have previously informed me  
25 that it runs in the family.

1           Could you please tell the court about that?

2           **A.** Yes. She has learning and mental disabilities, and her  
3 father has them also.

4           **Q.** And are there any other relatives in the family that  
5 also have issues regarding intellectual functioning?

6           **A.** Well, I don't know anything further back than her  
7 father because I don't know his family because he's from  
8 down south, but like I said, she has them really bad. She's  
9 been mentally disabled since she was a child also.

10          **Q.** And lastly, I have one other question.

11                 Has Larese -- strike that.

12                 Has your concerns about Larese increased over the years  
13 in terms of mental health issues? Has he had various  
14 problems?

15          **A.** Yes. He a lot of trauma dealing with his -- two of his  
16 daughters dying and dealing with his one daughter dying from  
17 cancer. Watching her die from cancer was really hard for  
18 him, and then his one cousin getting shot six times in the  
19 head, he's been through a lot.

20          **Q.** The other child, Ms. Johnson, the other child that  
21 passed away, was that his first?

22          **A.** Yeah. His first daughter, when she passed away, the  
23 hospital allowed him to sleep with the dead baby, which was  
24 really bad, too, because I'm like, who does that? And he  
25 slept with this dead baby, and he thought he could take the

1 dead baby out the hospital with him, and he actually tried  
2 to do it. I mean, he's gone through a lot. And he couldn't  
3 understand why he couldn't take this dead baby home with  
4 him.

5 Q. All right. I do appreciate you answering my questions.  
6 That's all of the questions I have.

7 MS. MIGDAL: Thank you very much, Your Honor.

8 THE COURT: Certainly.

9 Mr. Katz, any questions for Ms. Johnson?

10 MR. KATZ: No, Judge. Thank you.

11 THE COURT: All right. Thank you very much for  
12 your testimony, Ms. Johnson.

13 Ms. Migdal, do you want to present any other  
14 evidence?

15 MS. MIGDAL: No, Your Honor. I would rely on the  
16 information referred to earlier in the pretrial services  
17 report, the testimony of Ms. Johnson, and my concerns with  
18 regard to my encounter with the client and his limited  
19 abilities.

20 THE COURT: All right. And, Mr. Katz, any  
21 opposition to the motion for a psychiatric or psychological  
22 evaluation?

23 MR. KATZ: Judge, the government has no objection.

24 I would like to note, however, because I have some  
25 other cases that involve competency mental health

1 evaluations, the BOP has been loathed to pick up anyone for  
2 competency evaluations during the current pandemic. I  
3 reached out to the United States Marshal Services prior to  
4 this hearing, and I was told that they are, in fact,  
5 resuming picking up inmates for evaluation and transporting  
6 them to a BOP facility for evaluation.

7 However, it is still taking longer than normal for  
8 the BOP once they get the order to come out or to make a bed  
9 available and grab them.

10 So I just wanted all the parties to know the  
11 situation is moving forward, but it is moving forward more  
12 slowly than it has prior to the pandemic.

13 THE COURT: Ms. Migdal, you are aware of that on  
14 behalf of your client?

15 MS. MIGDAL: Yes. I had the same conversation  
16 with the marshals, and that's consistent with what I have  
17 been told.

18 THE COURT: Mr. Katz, I really appreciate your  
19 providing that background information relative to the status  
20 of transport through the marshal service to the BOP  
21 facilities.

22 Also, since this is under 18, United States Code,  
23 Section 4241, normally it's a 30-day period of time once  
24 they're at the facility, plus some additional 15 days, but I  
25 think what Mr. Katz is trying to say is this might not be

1     able to be performed in that period of time because of a lot  
2     of factors.

3             And so I just want to have everyone go into this  
4     eyes wide open, that it might take longer than the statutory  
5     period of time to get this performed and to get -- even to  
6     get Mr. Allen transported either to the facility or returned  
7     from the facility to the district. So just so everybody is  
8     clear on that.

9             Any questions, Ms. Migdal?

10            MS. MIGDAL: No, Your Honor.

11            THE COURT: Mr. Allen, do you have any questions?

12            THE DEFENDANT: No.

13            THE COURT: Mr. Katz, again, thank you for the  
14     information.

15            And, Ms. Migdal, I appreciate the fact that you  
16     followed up personally with the marshal service, as well.

17            All right. Based upon the representations of  
18     Ms. Migdal, as well as the information contained in the  
19     pretrial services report regarding Mr. Allen's mental health  
20     history, as well as the testimony that we heard today, the  
21     court finds that there's reasonable cause to believe that  
22     Mr. Allen may presently be suffering from a mental disease  
23     or defect rendering him mentally incompetent to the extent  
24     he is unable to properly assist in his defense, and, thus,  
25     the court finds the motion for a court-ordered competency

1 examination well taken.

2 The court will issue an order requiring Mr. Allen  
3 to undergo a psychiatric and/or psychological examination to  
4 determine his mental competence pursuant to Title 18, United  
5 States Code, Section 4241 and 18, United States Code,  
6 Section 4247(b) and (c).

7 All right. And I will issue a more complete order  
8 regarding the motion.

9 Anything further to present to the court, Mr.  
10 Katz?

11 MR. KATZ: No, Judge. Thank you.

12 THE COURT: Ms. Migdal?

13 MS. MIGDAL: No. Thank you, Your Honor.

14 THE COURT: You are welcome.

15 Mr. Allen, do you understand you will be  
16 transported to a BOP facility at some point for a competency  
17 evaluation, sir?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay. Do you have any questions?

20 THE DEFENDANT: No.

21 THE COURT: All right. That concludes this  
22 proceedings. Thank you.

23 MR. KATZ: Thank you, Judge.

24 THE COURT: Certainly.

25 MS. MIGDAL: Thank you, Your Honor.

1 THE COURT: You are welcome.

2 THE WITNESS: Thank you very much.

3 THE DEFENDANT: Thank you.

4 THE COURT: You are welcome.

5

6 C E R T I F I C A T E

7 I certify that the foregoing is a correct transcript  
8 from the record of proceedings in the above-entitled matter.

9 s/Lori A. Callahan

10 Lori Ann Callahan, RMR-CRR  
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I N D E X

DIRECT EXAMINATION OF FRANCES 6 21  
JOHNSON  
BY MS. MIGDAL